

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, JOHN
MEINERS, and DANIEL UMPA, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, et al.,

Defendants.

Civil Action No. 4:23-cv-00788-SRB

[Consolidated with 4:23-cv-00945-SRB]

Hon. Stephen R. Bough

JURY TRIAL DEMANDED

UNOPPOSED MOTION TO APPROVE FORM AND MANNER OF CLASS NOTICE

Plaintiffs respectfully request that the Court enter an order granting approval of the form and manner of Class Notice for recent settlements in this case.

The Court granted preliminary approval of Settlements with Defendants: (1) The Keyes Company and Illustrated Properties, LLC (collectively “Keyes”); (2) NextHome, Inc. (“NextHome”); (3) John L. Scott Real Estate Affiliates, Inc., and John L. Scott, Inc. (collectively “John L. Scott”); (4) The K Company Realty, LLC d/b/a LoKation (“LoKation”); (5) Real Estate One, Inc. (“Real Estate One”); and (6) Baird & Warner Real Estate, Inc. (“Baird & Warner”) (together the “Settling Defendants,” on November 5, 2024 (Doc. 534) and January 28, 2025 (Doc. 663). The Court further appointed JND Legal Administration (“JND”) as the Settlement Administrator to implement the terms of the proposed Settlement Agreements. *Id.* The parties now seek to send and publish notice to the Settlement Classes.

The Court has previously approved the form and manner of class notice for nine prior settlements in this *Gibson* action¹ and five prior settlements in the related *Burnett* action.² *See, e.g., Gibson* Doc. 161, (motion for preliminary approval of settlements and approval of notice plan); *Gibson* Doc. 163, ¶9 (Order approving notice plan); *Gibson* Doc 292 (motion to approve form of notices); *Gibson* Doc. 296 (Order approving form of notices); *Burnett* Doc. 1319 (motion for preliminary approval of settlements and approval of notice plan); *Burnett* Doc. 1321, ¶9 (Order approving notice plan); *Burnett* Docs. 1365 and 1371 (motions to approve form of notices); *Burnett* Doc. 1366 (Order approving form of notices).

The Settlement Classes in the recent Settlements with Keyes, NextHome, John L. Scott, LoKation, Real Estate One, and Baird & Warner overlap with settlement classes that have already been issued three previous rounds of class notice in *Gibson* and *Burnett*. For this fourth notice round, in order to make efficient use of settlement funds and maximize recovery for the Classes, Plaintiffs propose that JND implement a notice program substantially similar to the previous three rounds of notice, with postcards mailed to newly-obtained addresses only. This plan, pursuant to Rule 23(c)(2)(B), provides the “best notice practicable” to all potential Settlement Class Members who will be bound by the proposed Settlements. Accordingly, the Court should authorize the proposed notice plan.

Plaintiffs further request that the Court approve the content of the various notices being sent and published. Exhibit A is the “long form” notice that will be posted to the settlement

¹ Prior Settling Defendants in *Gibson* include Compass, Real Brokerage, Realty ONE, @properties, Douglas Elliman, Redfin, Engel & Völkers, HomeSmart, and United Real Estate. *See, e.g., Docs.* 163, 297, and 348.

² Prior Settling Defendants in *Burnett et al. v. National Association of Realtors, et al., Case No. 19-CV-00332-SRB (Western District of Missouri)* (“*Burnett*”) include Anywhere, RE/MAX, Keller Williams, HomeServices, and NAR.

website. Exhibit B is the “email notice” that will be sent to identified Class Members via email. Exhibit C is the “postcard notice” that will be mailed to newly identified Class Members via U.S. mail. The notices are derived from and substantially similar to the notices of settlements provided to, and approved by, the Court in this action and the *Burnett* action. *See, e.g., Burnett* Doc. 1319-1 at 76 (Keough Declaration, Exhibit B); *Burnett* Docs. 1365, 1365-1, 1365-2, 1365-3, 1366 (proposed notices and order approving form of notices in *Burnett*). These notices include the deadlines for filing objections and exclusions as well as the date of the final approval hearing. The parties further request that, in the event settlements with other Defendants in this case or related cases receive preliminary approval prior to printing and publishing the class notice materials, the notices may be modified to include notice of the additional settlements, while maintaining a substantially similar notice format. The long form notice will be posted to the website, and any new postcard notice will be mailed to Class Members at least 60 days prior to the objection/opt out deadline. The email and publication campaign will continue throughout the notice period.

The parties wish to send these notices as soon as possible and, therefore, respectfully request that the Court grant this motion without delay and authorize the parties to send notice in substantial compliance with Exhibits A-C, with the possible addition of other settling defendants.

DATED: February 10, 2024

Respectfully submitted by:

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